

**Comments of the
Harley-Davidson Motor Company
to the
Notice of Proposed Rulemaking
for
Reporting of Information About Foreign Safety Recalls
and
Campaigns Related to Potential Defects**

December 10, 2001

National Highway Traffic Safety Administration
Docket No. NHTSA 2001-10773; Notice 1.

The following is the official comment of the Harley-Davidson Motor Company (HDMC or the Motor Company) to the above named National Highway Traffic Safety Administration (NHTSA) Notice of Proposed Rulemaking. Please place them in the public record for this docket item.

Harley-Davidson is the premiere United States manufacturer of heavy-weight motorcycles and accessories. More than 20 percent of HDMC production is exported around the world to company subsidiaries and independent distributors.

Our comments will generally follow the format of the regulation proposals found beginning at 66 FR 51917.

Sec. 579.4. Definitions. More clarity is required for “Original equipment.” The rule incorporates as original equipment any item installed by a distributor or dealer prior to delivery with the “express authorization of the motor vehicle manufacturer.” HDMC vehicles today are shipped in a condition sufficient to be street legal in the nation to which they have been sent. However, all of the dealers and many of the distributors with whom we deal are independent business entities. There is an extraordinarily wide range of after-market parts and accessories made both by the motor company and an unknown number of after-market suppliers. Many of our customers will ask their dealers to install such equipment prior to delivery. We do not have the control over our dealer network sufficient to deny, authorize or require such installation, whether or not we make the item. However, this section may impute an express authorization on the part of the Motor Company. Since HDMC may not have control over the item, its design or suitability for use and will not have control over the installation, we cannot accept this definition.

Sec. 579.11. Additional definitions for subpart B. The two items here, “Other safety campaign,” and “Safety recall,” refer to actions taken by “a foreign subsidiary or affiliate or agent.” Many of our foreign distributors and affiliates are independent businesses not under the control of the Motor Company. Either through traditional business practice or statute, HDMC may not be aware or in control of such actions and cannot accept responsibility for them.

Sec. 579.12. Identical or substantially similar vehicles and equipment. Subsections (a) (5) and (b) may be troublesome. Many manufacturers, including HDMC, incorporate equipment from outside component suppliers. It is conceivable that such equipment may have been subject to a recall that is not relevant to its application in a Motor Company product. The Motor Company may not even be aware of such an action. The interaction of this section with section 579.13 may therefore place a burden on an ultimate vehicle manufacturer that cannot be met.

Subsections (a) (4) and (5) also cloud the reality that although a vehicle itself may have a substantial similarity, certain components will be different from those available in the United States. For example, while domestic and international turn signals may look the same, they may consist of completely different lenses, reflectors and bulbs. If such a component, not available in the US, is affected by a safety recall campaign, the requirements of section 579.13 should not apply. Similarly, if a US component is mistakenly placed on vehicles bound for another nation where other equipment standards apply, this regulation should not apply to a recall for the sole purpose of substituting the correct equipment.

Sec. 579.13. Reporting responsibilities. Subsection (c) requires a report for foreign safety-related campaigns known back through November, 2000. For several years, the European Union has engaged in rulemaking that will require new vehicles registered (not manufactured, but registered) after the middle of 2002 be given a general two year warranty. One of the reasons given for the new program was safety. From the current language, this appears to be the sort of action that would trigger a report to NHTSA. That appears unnecessary.

Subsection (e) is not workable within the HDMC business organization. This subsection requires a manufacturer to report to NHTSA by November 1 its intent to sell any particular model in any foreign country at any time during the following year. The HDMC model year production runs roughly from July 1 through June 30 of any given year. Orders for dealer shipment in that model year are generally taken at an annual dealer meeting held in early July (and to a lesser extent, at another meeting traditionally held in early January). We may not know whether a particular model will be sold in the foreign country up until that point. HDMC has also traditionally withheld any knowledge from our dealers and the general public of new models or where such models will be marketed until the meeting. Such a reporting requirement imposes burdens upon the motor company that are therefore entirely contrary to the practices that have made Harley-Davidson a success around the world. This subsection should therefore be dropped, or at the least, made optional for motorcycle manufacturers.

See also the above comments for sec. 579.11, above. Several portions of this section also contain the “affiliate” language to which we objected. We cannot accept responsibility for the actions or knowledge of entities when we have no awareness.

Thank you for the opportunity to submit these comments. Please direct any questions to the undersigned.

Sincerely,

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